

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENTS:** Stronger Together NYC and Grant Lincoln
6 in his official capacity as treasurer

MUR: 7103

7
8 **I. INTRODUCTION**

9 Complainant alleges that Stronger Together NYC, an independent expenditure only
10 political committee, and Grant Lincoln in his official capacity as treasurer (the "Committee"),
11 failed to report independent expenditures in support of Adriano Espaillat, a candidate in the 2016
12 Democratic primary election in New York's 13th Congressional District, in violation of the
13 Federal Election Campaign Act of 1971, as amended (the "Act").¹ Because the available
14 information in the record does not show that the Committee made the independent expenditures
15 in support of Espaillat that are the subject of the Complaint, the Commission dismisses the
16 allegation and closes the file.

17 **II. FACTUAL BACKGROUND**

18 On June 25, 2016, Politico published an article that re-printed a memo dated June 21,
19 2016 (one week before the June 28 New York Democratic primary), authored by Chad
20 Proudlock, the self-described "co-founder" of the Committee. The memo outlined various
21 scenarios in which Espaillat could win his Congressional primary, set forth a planned course of
22 action to help Espaillat win, and solicited funds to implement the plan.² The memo purported to
23 attach "2 negative and 1 contrast mail piece examples, as well as a line-item budget for the mail
24 and GOTV;" however, those attachments were not re-printed in the article nor included in the

¹ Compl. at 1.

² See Compl. at 2-3; A. Playbarah, *Wright, Sharpton Say There Is a Plot to Suppress the Black Vote in the Rangel Race*, POLITICO, June 25, 2016, <http://www.politico.com/states/new-york/city-hall/story/2016/06/wright-sharpton-say-there-is-a-plot-to-suppress-the-black-vote-in-rangel-race-103272>.

1 Complaint and are unavailable to the Commission. The memo further outlined a victory scenario
2 for Espaillat if he “prevents or suppresses the White Progressive and African American vote for
3 [Espaillat’s primary opponent] by 5% points of these combined voter groups, or roughly 2000
4 votes.”³ The memo concluded by recommending “micro-targeted Direct Mail and persuasion
5 dials (using contrast messaging) communicated to White Progressives and African American
6 voters in AD 68, 69 and 70, presenting a dissuasive message to suppress turnout for these
7 specific groups...” and an on-the-ground field operation that the Committee had purportedly
8 already staffed with “40 + college kids.”⁴ It appears that the Committee disseminated the memo
9 via email, though the sender email address is not included in the article.⁵

10 Complainant alleges that the Committee failed to report independent expenditures for the
11 activities outlined in the memo as well as for the Committee’s website.⁶ Complainant, however,
12 does not identify any independent expenditures that the Committee actually made as outlined in
13 the June 21 memo, nor does it provide any screenshots of the website, which is not available to
14 the Commission.

15 The only disclosure report the Committee filed with the Commission is a 2016 July
16 Quarterly Report covering activity from April 1, 2016 through June 30, 2016, which includes the
17 time period leading up to and including the Democratic primary election in New York. In that

³ *Id.*

⁴ *Id.*

⁵ The memo starts with “Sent: Tuesday, June 21, 2016 12:01 PM,” and the Politico article quotes an Espaillat spokesman that “denounces this email.” *Id.* It is not evident to whom the memo is addressed; however, it appears to be directed to employees of one or more corporate entities as it states: “We would like for you and your CEO to examine the materials at your convenience and try to connect later this afternoon around 4:00pm EST to answer any questions you have as to why Stronger Together NYC’s negative pieces and GOTV program is essential to putting Sen. Espaillat over the top on June 28th.” *Id.*

⁶ Compl. at 3-4.

1 report, the Committee disclosed \$6,000 in contributions from two other political committees and
2 \$5,000 in disbursements to F-3 Solutions – a company owned by Chad Proudlock – for
3 “Consulting/Set-up Fees.”⁷ Additionally, the Committee disclosed approximately \$16,600 in
4 debt owed to F-3 Solutions for legal counsel, Spokeo donor research tool, poll, website, email
5 list cleaning, data validation, email delivery, and automated calls.⁸ In response to the
6 Committee’s failure to file subsequent disclosure reports, the Commission’s Reports Analysis
7 Division (“RAD”) sent “RFAI – Failure to File” notices to the Committee, which have gone
8 unanswered.⁹ The Committee did not file a response to the Complaint.

9 III. LEGAL ANALYSIS

10 The Act requires committee treasurers to file reports of receipts and disbursements in
11 accordance with the provisions of 52 U.S.C § 30104(b).¹⁰ Reports shall include independent
12 expenditures made by political committees other than authorized committees.¹¹ Every political
13 committee that makes independent expenditures must report them in its regularly scheduled
14 disclosure reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii).¹² In addition, political

⁷ See Stronger Together NYC 2016 July Quarterly Report at 7 (July 15, 2016). Like the Committee, F-3 Solutions has little current or archived internet presence. F-3 Solutions is not registered to do business in New York. See New York Department of State, Division of Corporations, Business Entity Search, https://www.dos.ny.gov/corps/bus_entity_search.html.

⁸ Stronger Together NYC 2016 July Quarterly Report at 8-10.

⁹ See RFAI – Failure to File – October Quarterly, Stronger Together NYC (Oct. 31, 2016); RFAI – Failure to File – Post-General, Stronger Together NYC (Dec. 28, 2016); RFAI – Failure to File – Year-End, Stronger Together NYC (Feb. 16, 2017).

¹⁰ 52 U.S.C. § 30104(a)(1).

¹¹ 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.3(b)(1)(vii).

¹² 11 C.F.R. § 104.4(a). Such a political committee must disclose on Schedule E the name of a person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee. The report also must disclose the date, amount, and purpose of any such independent expenditure and include a statement that indicates whether such independent expenditure is in support of or in opposition to a candidate, as well as the name and office

1 committees that make independent expenditures aggregating \$1,000 or more with respect to a
2 given election after the 20th day, but more than 24 hours before the date of that election, must
3 disclose them within 24 hours following the date of dissemination.¹³ The committee must file
4 additional reports within 24 hours of each time it makes or contracts to make independent
5 expenditures aggregating an additional \$1,000.¹⁴

6 The available record lacks information indicating that the Committee actually made
7 independent expenditures as outlined in a June 21 memo attributed to the Committee and
8 reprinted in a Politico article. There is no indication whether the modest disbursements and debt
9 owed to F-3 Solutions disclosed in the Committee's July Quarterly Report constitute reportable
10 independent expenditures. Given the apparently low level of spending by the Committee
11 (\$5,000 in disbursements and \$16,600 in debt), investigating whether it should have filed
12 separate independent expenditure reports for any of its activity or pursuing its failure to continue
13 filing disclosure reports does not warrant the use of Commission resources.¹⁵ Therefore, the
14 Commission dismisses the allegations that the Committee violated 52 U.S.C. § 30104 and
15 11 C.F.R. § 104.4(c) by failing to report independent expenditures, and closes the file.

sought by such candidate. Independent expenditures of \$200 or less do not need to be itemized, though the committee must report the total of those expenditures on line (b) of Schedule E. *Id.*

¹³ 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c).

¹⁴ 11 C.F.R. § 104.4(c).

¹⁵ See *supra* note 10; see, e.g., Factual and Legal Analysis at 6-7, MUR 6717 (DNC) (Commission dismissed the alleged failure to report a small amount of independent expenditures).